



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

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Perkins Coie
700 13th Street, NW, Suite 600
Washington, D.C. 20005

MAY 26 2017

RE: MUR 6990
Friends of Patrick Murphy, *et al.*

Dear Messrs. Elias and Wilson and Ms. Lopez:

On December 11, 2015, the Federal Election Commission ("Commission") notified your clients, Friends of Patrick Murphy and Brian Foucart in his official capacity as treasurer, Thomas P. Murphy, Jr. and Leslie Murphy, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On May 11, 2017, the Commission found, on the basis of the information in the complaint, and information provided by your clients, that there is no reason to believe that Friends of Patrick Murphy and Brian Foucart in his official capacity as treasurer violated 52 U.S.C. §§ 30116(f) or 30122 or 11 C.F.R. § 110.4(b). On that same date, the Commission found no reason to believe that Thomas P. Murphy or Leslie Murphy violated 52 U.S.C. §§ 30116(a) or 30122 or 11 C.F.R. § 110.4(b). Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which more fully explains the Commission's findings, is enclosed.

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If you have any questions, please contact Marianne Abely, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Mark Allen
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Friends of Patrick Murphy and Brian Foucart MUR 6990
in his official capacity as treasurer
Ami Bera for Congress and Jennifer May
in her official capacity as treasurer
Kevin Strouse for Congress and Robert Fader
in his official capacity as treasurer
Thomas P. Murphy, Jr.
Leslie Murphy
Babulal Bera
Robert Strouse

I. INTRODUCTION

This matter was generated by a Complaint filed with the Federal Election Commission (the "Commission") by Douglas D. Head, alleging violations of the Federal Election Campaign Act, as amended (the "Act"), by Friends of Patrick Murphy and Brian Foucart in his official capacity as treasurer, Ami Bera for Congress and Jennifer May in her official capacity as treasurer, Kevin Strouse for Congress and Robert Fader in his official capacity as treasurer, Thomas P. Murphy, Jr., Leslie Murphy, Babulal Bera, and Robert Strouse.

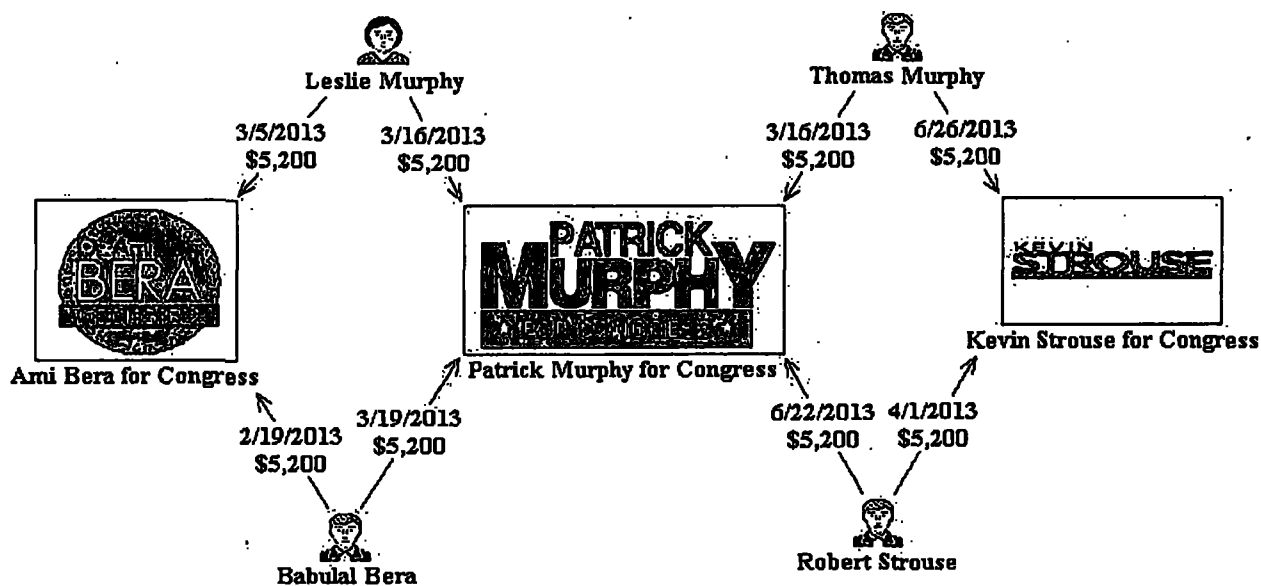
II. FACTUAL AND LEGAL ANALYSIS

A. Facts

The Complainant alleges that the Respondents violated the Act and Commission regulations by participating in a "donor swap" scheme to make contributions in the names of others for the purpose of evading the Act's contribution limits.¹ The scheme involved certain contributions by Leslie Murphy and Thomas P. Murphy, Jr., the parents of congressional candidate Patrick Murphy; contributions by Robert Strouse, the father of congressional candidate

¹ MUR 6990 Compl. at 1.

- 1 Kevin Strouse; and contributions by Babulal Bera, the father of congressional candidate Amerish
- 2 “Ami” Bera,² as shown in the diagram below.



3

4 Mr. and Mrs. Murphy, Mr. Strouse, and Mr. Bera had each contributed the \$5,200

5 maximum to their children’s principal campaign committees for the 2014 primary and general

6 elections.³ According to the Complaint, the purpose of the scheme was to evade the Act’s

7 individual contribution limits.⁴ On March 5, 2013, Leslie Murphy contributed \$5,200 to Ami

8 Bera’s principal campaign committee, Ami Bera for Congress.⁵ The Complaint alleges that, two

9 weeks later, Babulal Bera reimbursed this contribution by making two \$2,600 contributions to

10 Patrick Murphy’s principal campaign committee, Friends of Patrick Murphy.⁶ Similarly,

11 according to the Complaint, Robert Strouse contributed a total of \$5,200 to the Murphy

² See MUR 6990 Compl. at 1-2.

³ See 52 U.S.C. § 30116(a)(1)(A).

⁴ MUR 6990 Compl. at 1.

⁵ *Id.* at 2, Ex. D.

⁶ *Id.* Ex. A.

1 Committee on June 22, 2013, and, just four days later, was reimbursed by Thomas P. Murphy,
2 Jr.'s two \$2,600 contributions to Kevin Strouse for Congress.⁷ These actions led the
3 Complainant to conclude that Leslie Murphy permitted her name to be used to make a
4 contribution in the name of another and that Thomas P. Murphy, Jr., made a contribution in the
5 name of another in violation of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b).⁸

6 Respondents deny the allegations and assert that the Complaint fails to present any facts
7 demonstrating that they participated in an unlawful "scheme" involving the reimbursement of
8 contributions.⁹ According to the Responses, the Murphys, Babulal Bera, and Robert Strouse
9 independently made legal and direct contributions to the candidate committees at issue, actions
10 that were entirely consistent with their longstanding history of contributing to federal political
11 committees.¹⁰ The Responses also argue that the Commission has previously determined that
12 series of direct contributions, such as those presented in this matter, are lawful as they do not
13 involve the reimbursement of funds used to make the contributions.¹¹

14 **B. Analysis**

15 The Act limits how much an individual can contribute to a federal candidate and his or
16 her principal campaign committee.¹² The Act and Commission regulations provide that no
17 person shall make a contribution in the name of another person or knowingly permit his or her

⁷ *Id.* at 1, Exs. B and C.

⁸ *Id.* at 1-2.

⁹ Murphy Committee, Leslie and Thomas P. Murphy, Jr. Resp. ("Joint Murphy Resp.") at 1-2; Bera Committee Resp. at 1; Bera Resp. at 1-2; Strouse Resp. at 1-2.

¹⁰ Joint Murphy Resp. at 1; Bera Resp. at 1-2; Strouse Resp. at 1.

¹¹ Joint Murphy Resp. at 1-3; Bera Resp. at 3; Bera Committee Resp. at 2; Strouse Resp. at 2.

¹² 52 U.S.C. § 30116(a). During the 2014 election cycle, an individual could contribute a maximum of \$2,600 to a candidate per election.

1 name to be used to effect such a contribution.¹³ In addition, “no person shall . . . knowingly help
2 or assist any person in making a contribution in the name of another.”¹⁴ Candidates, their
3 committees, and their agents are also prohibited from knowingly accepting contributions that
4 exceed the Act’s limits and contributions made in the name of another.¹⁵

5 As argued in the Response, the available information does not support the Complainant’s
6 allegations that the contributions identified in the Complaints constitute contributions in the
7 name of another for the purpose of exceeding federal contribution limits. The Complaint
8 identifies contributions made by four parents to each other’s adult children, but does not provide
9 any information – indeed, does not even specifically allege – that the funds were not the personal
10 funds of the named contributors.

11 Accordingly, the Commission finds no reason to believe that Friends of Patrick Murphy
12 and Brian Foucart in his official capacity as treasurer violated 52 U.S.C. §§ 30116(f) or 30122,
13 or 11 C.F.R. § 110.4(b); Ami Bera for Congress and Jennifer May in her official capacity as
14 treasurer violated 52 U.S.C. §§ 30116(f) or 30122, or 11 C.F.R. § 110.4(b); Kevin Strouse for
15 Congress and Robert Fader in his official capacity as treasurer violated 52 U.S.C. §§ 30116(f) or
16 30122, or 11 C.F.R. § 110.4(b); Thomas P. Murphy, Jr. violated 52 U.S.C. §§ 30116(a) or 30122,
17 or 11 C.F.R. § 110.4(b); Leslie Murphy violated 52 U.S.C. §§ 30116(a) or 30122, or 11 C.F.R.

¹³ 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b)(1)(i), (ii).

¹⁴ See 11 C.F.R. § 110.4(b)(1)(iii).

¹⁵ See 52 U.S.C. §§ 30116(f) and 30122; 11 C.F.R. §§ 110.4(b)(1)(iv). Commission regulations also require treasurers of political committees to examine all contributions for evidence of illegality. Should a treasurer determine that a contribution is illegal, including that a contribution was made in the name of another, the treasurer shall refund the contribution to the contributor within 30 days of the date on which the illegality was discovered. 11 C.F.R. § 103.3(b).

- 1 § 110.4(b); Babulal Bera violated 52 U.S.C. §§ 30116(a) or 30122, or 11 C.F.R. § 110.4(b); or
- 2 Robert Strouse violated 52 U.S.C. §§ 30116(a) or 30122, or 11 C.F.R. § 110.4(b).

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